

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1337 of 1987

with

SPECIAL CIVIL APPLICATION No 5285 of 1986

and

SP. CIVIL APPLICATIONS No. 6771 and 6772 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GANDEVI NAGAR PANCHAYAT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1337 of 1987
MR MI PATEL for Petitioner
MR JM THAKORE ADV. GENERAL assisted by MR MUKESH PATEL
for Respondent No. 1
None present for Respondent No. 2
2. Special Civil Application No 5285 of 1986
None present for Petitioner
MR JM THAKORE ADV. GENERAL assisted by MR MUKESH PATEL
for Respondent No. 1
MR BIPIN I MEHTA for Respondent No. 9

None present for other Respondents

3. Sp. Civil Applications No 6771 and 6772 of 1991

MR BIPIN I MEHTA for Petitioners

MR JM THAKORE ADV. GENERAL assisted by MR MUKESH
PATEL for Respondent No.1.

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/08/98

C.A.V. JUDGEMENT

1. Heard the learned counsel for the parties. As in all these special civil applications, common questions of law are involved the same are being taken up for hearing together and are being disposed of by this common order.

2. The facts of the case are being taken from Special Civil Application No.1337 of 1987 briefly as the contention of the counsel for the petitioners is that the matters are squarely covered by the decision of this Court given in special civil application No.1205 of 1978 decided on 3-5-1983, which decision has also been affirmed by the Hon'ble Supreme Court.

3. The petitioner in this special civil application is the Gandevi Nagar Panchayat, Gandevi Taluka, District Bulsar. In this special civil application, prayer has been made by the petitioner that the State of Gujarat be directed to implement the judgment and directions given by this Court in special civil application No. 309 of 1976 decided on 28-1-1977 as confirmed by the Supreme Court of India by its judgment and order dated 27-1-1983 passed in civil appeal No.359 of 1978 with writ petitions no.4266 and 4270 of 1978 and further direction to the respondent-State to pay all the salaries, allowances and benefits payable to the employees of local cadre of the petitioner-Panchayat as per the recommendations of the Pay Commissions from time to time.

4. Earlier, I had an occasion to decide the identical issue in special civil application No.427 of 1992 and allied matters on 15th August, 1997. These special civil applications were also filed by the employees of the Nagar Panchayat or Gram Panchayat wherein the prayer had been made by them for direction to the State Government to extend all service benefits to them which are extended to the employees of the District cadre and Taluka cadre employees and employees of the

converted Nagar Panchayat. So in sum and substance, prayer has been made for issuance of a writ of mandamus or any other appropriate writ, order or direction, directing the respondents - State Government and District Panchayat to fix the pay scales and allowances and other conditions of service of the employees of the Panchayat and to give them the benefit of accepted recommendations of the first and second Pay Commission as has been extended to officers and servants of the Panchayat service and to pay to the employees, the amount payable to them as a consequences of rationalisation and revision of pay scales and allowances and other conditions of service.

5. Halol Nagar Panchayat, filed special civil application No.1205 of 1978 before this Court like the petitioner in this special civil application. In that special civil application, Halol Nagar Panchayat prayed for appropriate writs, orders or directions enjoining the respondents to give to the petitioner-Panchayat and its employees the same uniform and equal treatment as it is bound to give in pursuance of the judgment of the Division Bench in the case of R.K. Soni vs. State of Gujarat (AIR 1977 Gujarat 76) and the respondents be enjoined to fix the pay scales and allowances and other conditions of service of the employees of the petitioner Panchayat and to accord to them the benefit of the Sarela as well as Desai Pay Commissions and to extend all the consequential benefits as equal thereof. That special civil application has been accepted by the Division Bench of this Court and same was allowed and directions were issued to the respondents directing the respondent-State Government in the same terms in which the writ was issued by the Division bench of this Court in R.K. Soni's case (supra) so as to extend the benefits relating to equation of posts, promotions, fixation of pay scales and revision thereof on the basis of the recommendations of the Sarela and the Desai Pay Commissions. However, no writ was issued to declare the Gujarat Panchayat (Third Amendment) Act of 1978 as unconstitutional being violative of Articles 311 and 14 of the Constitution of India as it has been declared to be so by the Supreme Court in the State of Gujarat and another vs. Ramanlal Keshavlal Soni and others reported in 1983 (2) SCR 287.

6. Against the judgment of the Division Bench of this Court in the case of Halol Nagar Panchayat, the State of Gujarat filed the S.L.P. before the Hon'ble Supreme Court which came to be dismissed on 3-9-1993. Relying on that decision I have decided the special civil application No.427/92 and cognate matters (supra).

7. The learned Advocate General contended that this court has decided those writ petitions against the State Government on the ground that the learned counsel who was appearing for the respondent in that matters was unable to satisfy that the matters are not covered by the two decisions of this Court. The learned Advocate General further contended that while deciding the S.L.P. by the Supreme Court in the case of Halol Nagar Panchayat, the court has left the important issue open for consideration and that matter may be considered by this Court. He referred to the reply affidavit filed in these special civil applications. However, this court cannot be oblivious of the fact that the Division Bench has decided the matter and in the earlier special civil applications this Court has not contributed anything except to follow that decision. That Division Bench decision has been confirmed by the Supreme Court and it is equally true as what the learned Advocate General contended that unless and until the order of allocation of the Gram Panchayat employees is made by the Government they cannot be treated to be Government servants, has been left open by the court while deciding the S.L.P. against the order of the Division Bench of this Court in the Halol Nagar Panchayat's matter. But it is a fact that the Division Bench decision given in Halol Nagar Panchayat has been confirmed. The Division Bench decision is binding on me sitting as a single Judge and what I did in earlier set of petitions, simply I followed that decision. So long as the Division Bench decision is there I cannot take any contrary view to the said decision nor I consider it to be appropriate sitting singly, to re-examine the matter with reference to the point which the Hon'ble Supreme Court is stated to have left open for consideration. The Division Bench may consider all aspects in appropriate case. At the cost of repetition, I may submit that sitting singly, the Division Bench decision is binding on me and the same has to be accepted.

8. One important fact has to be mentioned here that against the decision of this Court in special civil application No.427/92 and cognate matters (supra), the State of Gujarat has not filed any L.P.A.. So that decision also attained the finality. Taking into consideration the totality of the facts of this case, I consider these matters to be fit one where similar directions, as issued by the Division Bench in the case of Halol Nagar Panchayat, are to be issued therein.

9. In the result, all these special civil applications succeed and the same are allowed. The

respondent-State is directed in terms in which the writ was issued by the Division Bench of this Court in R.K. Soni's case (supra) so as to extend the benefits relating to equation of posts, promotions, fixation of pay scales and revision thereof on the basis of the Sarela and Desai Pay Commissions. The State Government shall carry out these directions at the earliest but in no case later than 31st December, 1998. Rule is made absolute accordingly. No order as to costs.

zgs/-